

SEVENTEENTH DAY
(Thursday, February 23, 1989)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Absent-excused: Parmer.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Holy Father, this morning we give thanks for the blessings of life and pray we will never take them for granted. May we act and react today in a manner that would represent an extension of Your grace and in all things be constantly alert for Your direction. In Your name we pray. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Parmer was granted leave of absence for today on account of important business on motion of Senator Brooks.

RESOLUTION SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolution:

H.C.R. 20

REPORTS OF STANDING COMMITTEES

Senator McFarland submitted the following report for the Committee on Criminal Justice:

S.B. 351
S.B. 344
S.B. 441
S.B. 350
C.S.S.B. 149
C.S.S.B. 173
C.S.S.B. 85
C.S.S.B. 322

Senator Parmer submitted the following report for the Committee on Intergovernmental Relations:

S.B. 289
S.B. 491
S.B. 200
C.S.S.B. 525

C.S.S.B. 92

Senator Uribe, Vice-chairman, submitted the following report for the Committee on Health and Human Services:

S.B. 237

S.B. 169

Senator Parker submitted the following report for the Committee on Education:

S.B. 47

S.B. 4

C.S.S.C.R. 49

C.S.S.B. 583

C.S.S.B. 122

C.S.S.B. 20

Senator Edwards submitted the following report for the Committee on Nominations:

We, your Committee on Nominations, to which were referred the attached appointments, have had same under consideration, and report them back to the Senate for final consideration.

To be a Member of the TEXAS BOARD ON AGING: Dr. Carl U. Westbrook II, Smith County.

To be a Member of the BOARD OF REGENTS, THE UNIVERSITY OF TEXAS SYSTEM: Dr. Mario Ramirez, Starr County.

To be a Member of the PUBLIC SAFETY COMMISSION: Albert Alkek, Victoria County.

To be Members of the BOARD OF DIRECTORS, STATE BAR OF TEXAS: Dr. Joseph S. Beneke, Harris County; Earl William Chapman, Travis County.

To be Members of the TEXAS MOTOR VEHICLE COMMISSION: William W. Collins, Jr., Tarrant County; Norman Scott Jones, Harris County.

To be Members of the TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE: J. Coley Cowden, Midland County; Jerry Deere, Brazoria County; Randall L. Schmidt, Tarrant County.

To be Members of the GULF COAST WASTE DISPOSAL AUTHORITY: Dr. Charles T. Ladoulis, Harris County; Mrs. Kathleen McCrory Vaughn, Chambers County; Philip Allen Werner, Galveston County.

To be Members of the TEXAS HOUSING AGENCY BOARD OF DIRECTORS: Ms. Margie Lee Bingham, Fort Bend County; Edmund R. Carrera, El Paso County.

To be Members of the STATE PROPERTY TAX BOARD: George F. Bobbitt, Harris County; Marvin L. Jones, Hutchinson County; Arthur C. White, Dallas County.

To be a Member of the TEXAS WATER COMMISSION: Buck Jim Wynne III, Dallas County.

To be JUDGE OF THE TARRANT COUNTY COURT AT LAW NO. 1: R. Brent Keis, Tarrant County.

MESSAGE FROM THE HOUSE

House Chamber
February 23, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 221, Relating to nonsubstantive additions to and corrections in enacted codes, including the nonsubstantive codification of various laws omitted from enacted codes and conforming codifications enacted by the 70th Legislature to other acts of that Legislature.

S.B. 223, Relating to conforming the Executive Title of the Government Code to certain Acts of the 70th Legislature and to nonsubstantively codifying in that title certain related statutes. (As amended)

H.B. 82, Relating to exempting from ad valorem taxation personal property not held or used to produce income.

H.B. 251, Relating to the governing board, regulation, and authority of group hospital service corporations.

S.C.R. 33, In memory of Willie Wells.

S.C.R. 44, Congratulating the Texas Department of Labor and Standards on its outstanding service to the people of Texas.

S.C.R. 46, In memory of Edith H. Buss.

H.C.R. 5, Congratulating MP Industries of Tyler.

H.C.R. 6, Commending the Hawkins Industrial Arts Club.

H.C.R. 24, Recognizing the Optimist Club Chicken as the official symbol of the fight against drugs in Southeast Texas.

H.C.R. 29, Urging the State Board of Education to include suicide prevention and intervention among subject areas for teacher inservice training.

H.C.R. 53, Congratulating Aileen Franklin.

H.C.R. 56, Commending Shane McGuire.

H.C.R. 66, Commending Harold Smotherman.

H.C.R. 67, Declaring February 28, 1989, Counselors Day throughout the State.

H.C.R. 73, Recognizing Temple as the Wildflower Capital of Texas.

H.C.R. 76, Honoring Dr. Harold C. Boehning.

H.C.R. 78, In memory of Earl Edward Bradley.

H.C.R. 81, Congratulating Barbara Walker, Texas State Teacher of the Year.

H.C.R. 87, Declaring March 1989 as Women's History Month in Texas.

H.C.R. 103, Honoring A. W. Riter, Jr.

H.C.R. 111, Commending the Honorable George Louis Allen of Dallas.

H.C.R. 112, Congratulating State Representative Wilhelmina Delco.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

GUESTS PRESENTED

Senator Brooks was recognized and introduced distinguished guests Senator Sammy Nunez, President Pro Tempore of the Louisiana Senate and President of the National Conference of State Legislatures; and Representative Irving Stolberg, former Speaker of the Connecticut House of Representatives and former President of the National Conference of State Legislatures.

At the invitation of the Senate, Senator Nunez addressed the Senate.

HOUSE RESOLUTION ON FIRST READING

The following resolution received from the House was read the first time and referred to the Committee indicated:

H.C.R. 28, To Committee on Education.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.J.R. 26 by Edwards, Sims State Affairs
Proposing a constitutional amendment authorizing the issuance of general obligation bonds to provide financial assistance to agricultural businesses of Texas to increase, improve, and expand the production, processing, marketing, and export of agricultural crops and agricultural products produced in Texas.

S.J.R. 27 by Parker Finance
Relating to the institutions eligible to benefit from the permanent university fund.

S.J.R. 28 by Sims Intergovernmental Relations
Proposing a constitutional amendment to authorize abolishing the office of constable in certain counties.

S.J.R. 29 by Glasgow Jurisprudence
Proposing a constitutional amendment relating to the time in which a minor may bring a health care liability claim.

S.C.R. 50 by Barrientos, Truan Education
Requesting the State Board of Education and the Texas Higher Education Coordinating Board to direct all federal funding available to single parents and homemakers be expended on the secondary school level.

S.C.R. 51 by Barrientos, Truan Education
Requesting the State Board of Education to consider use of certain federal funds for pilot programs relating to latchkey children and pregnant teens.

S.B. 616 by Washington Economic Development
Relating to the suspension or revocation of the license of a real estate broker or real estate salesman based on an inquiry or disclosure by the licensee relating to whether the previous occupant of real property had, may have had, has, or may have certain communicable diseases.

- S.B. 617** by Washington Jurisprudence
Relating to regulation of private process servers; providing penalties.
- S.B. 618** by Washington Health and Human Services
Relating to insurance coverage for acquired immune deficiency syndrome and human immunodeficiency virus infection.
- S.B. 619** by Truan, Zaffirini Education
Relating to sick leave for public school employees.
- S.B. 620** by Montford Economic Development
Relating to the sale of alcoholic beverages at certain airports.
- S.B. 621** by Johnson Intergovernmental Relations
Relating to the authority of the district court to appoint a receiver to assist in the repair of substandard buildings in an action brought by a home-rule municipality.
- S.B. 622** by Johnson Health and Human Services
Relating to continuing education requirements for registered nurses.
- S.B. 623** by Johnson Education
Relating to certain purchases by school districts.
- S.B. 624** by Montford Natural Resources
Relating to the membership and continuation of the On-site Wastewater Treatment Research Council.
- S.B. 625** by Montford Economic Development
Relating to the creation of security interests by certain transactions.
- S.B. 626** by Brooks State Affairs
Relating to the adoption of minimal standards for elevators, escalators, and related equipment, the creation of the elevator certification board, and inspections of elevators, escalators, and related equipment; providing a penalty.
- S.B. 627** by Brooks Economic Development
Relating to the regulation of certain crane operators; providing penalties.
- S.B. 628** by Montford, Sims Economic Development
Relating to the transportation of wine out of the state.
- S.B. 629** by Montford, Sims Economic Development
Relating to the sale of wine by the holder of a winery permit.
- S.B. 630** by Montford State Affairs
Relating to participation in, benefits from, and contributions to the Texas County and District Retirement System.
- S.B. 631** by Montford State Affairs
Relating to removing certain authorities created under Article XVI, Section 59, of the Texas Constitution from review under the Texas Sunset Act.
- S.B. 632** by Harris State Affairs
Relating to the liability of independent contractors who contract with a municipality to provide certain mass transportation services.
- S.B. 633** by Haley Economic Development
Relating to certain disclosures to be made to title insurance policy purchasers.
- S.B. 634** by Haley Economic Development
Relating to certain accounts maintained by title insurance agents.

- S.B. 635** by Haley Economic Development
Relating to issuance of insured closing letters by title insurance companies.
- S.B. 636** by Dickson Intergovernmental Relations
Relating to competitive bidding requirements for certain counties.
- S.B. 637** by Edwards, Sims State Affairs
Relating to the issuance of general obligation bonds to provide financial assistance in whole or in part to agricultural businesses of Texas.
- S.B. 638** by Johnson Jurisprudence
Relating to the authority of a court to sentence defendants convicted of criminal nonsupport to house arrest and impose as a condition of the sentence that the defendants perform community service work.
- S.B. 639** by Brown Criminal Justice
Amending the Government Code.
- S.B. 640** by McFarland Criminal Justice
Relating to a court's continuing jurisdiction in a felony case.
- S.B. 641** by McFarland State Affairs
Relating to governmental liability for an employee acting in an emergency.
- S.B. 642** by Carriker Jurisprudence
Relating to the bond required before the issuance of an order restraining or enjoining foreclosure on the homestead of an indigent person.
- S.B. 643** by Sims Natural Resources
Relating to the powers and duties of the Texas Mohair Producers Board and the Texas Pork Producers Board.
- S.B. 644** by Brown Intergovernmental Relations
Relating to the possession or use of a badge, identification card, shoulder emblem, insignia, uniform, marked patrol vehicles, and name of certain municipal law enforcement agencies or of a badge, identification card, shoulder emblem, insignia, uniform, or marked patrol vehicle that are deceptively similar to such an item used by a law enforcement agency of a city with a population of 1,500,000 or more according to the last preceding Federal Census; creating certain offenses relating thereto and authorizing certain injunctive relief.
- S.B. 645** by Brown Jurisprudence
Relating to the period in which a person must bring suit for certain damages against certain surveyors.
- S.B. 646** by Truan Education
Relating to the establishment of a law school at Texas A&I University.
- S.B. 647** by Truan Education
Relating to organizing Corpus Christi State University and to the funding of Texas A&I University and Del Mar College as affected by the transition of Corpus Christi State University to four-year status.
- S.B. 648** by Montford Economic Development
Relating to regulation of out-of-state group accident and health insurance coverage.
- S.B. 649** by Washington Criminal Justice
Relating to policies and programs of the Texas Department of Corrections, the Board of Pardons and Paroles, courts that sentence criminal defendants, and local law enforcement agencies and correctional facilities concerning AIDS and HIV infections.

- S.B. 650** by Parker Education
Relating to technology and telecommunications in public education.
- S.B. 651** by Washington Education
Relating to the employment of school nurses in certain school districts.
- S.B. 652** by Washington Intergovernmental Relations
Relating to administrative adjudication of parking offenses in certain municipalities.
- S.B. 653** by Whitmire Intergovernmental Relations
Relating to an increase in benefits and a cost of living adjustment in certain retirement systems of fire fighters and declaring an emergency.
- S.B. 654** by Whitmire Intergovernmental Relations
Relating to activities of members of the boards of trustees of certain retirement systems for fire fighters.
- S.B. 655** by Parker Intergovernmental Relations
Relating to the compensation of the chief appraiser of an appraisal district.
- S.B. 656** by Parker State Affairs
Relating to inspection for sunscreening device labels on certain motor vehicles.
- S.B. 657** by Parker Jurisprudence
Relating to the personal civil liability of a member of the emergency management council or a local emergency planning committee.
- S.B. 658** by Parker Health and Human Services
Relating to the establishment of a patient profile record system and to patient prescription records required to be maintained by certain physicians.
- S.B. 659** by Lyon Economic Development
Relating to control share acquisitions and certain business combinations.
- S.B. 660** by Glasgow Jurisprudence
Relating to the proof of a health care liability claim.
- S.B. 661** by Glasgow Jurisprudence
Relating to the qualification of an expert witness in a suit involving a health care liability claim against a physician or health care provider.
- S.B. 662** by Green Economic Development
Relating to investment by certain domestic insurers in bonds of Canadian corporations.
- S.B. 663** by Barrientos Intergovernmental Relations
Relating to computing the hours of labor of certain members of the fire department in certain cities.
- S.B. 664** by Montford State Affairs
Relating to the creation, composition, powers, duties, and operation of the Legislative Insurance Board.
- S.B. 665** by Montford State Affairs
Relating to the delay in payment of claims under insurance coverage.
- S.B. 666** by Glasgow Finance
Relating to the effect on a school district's tax rate of new program requirements imposed by law.

S.B. 667 by Zaffirini Education
Relating to tuition paid by certain foreign students enrolled in a public junior college.

S.B. 668 by Caperton, Glasgow State Affairs
Relating to application of the open meetings law and open records law to the Texas Catastrophe Property Insurance Association.

S.B. 669 by Caperton, Glasgow Finance
Relating to the premium tax credit claimed for assessments paid by certain insurance companies as members of certain insurance guaranty associations.

S.B. 670 by Caperton, Glasgow Finance
Relating to certain premium taxes, premium surtaxes, and retaliatory taxes imposed on certain insurance companies and the payment of tax refunds to and the distribution of tax refunds by those insurance companies.

S.B. 671 by Brooks Health and Human Services
Relating to clarification and authorization relating to drugs and devices necessary to perform dialysis for persons with chronic kidney failure.

S.B. 674 by Glasgow, Caperton Finance
Relating to the application and calculation of the franchise tax.

CO-AUTHOR OF SENATE BILL 157

On motion of Senator Washington and by unanimous consent, Senator Johnson will be shown as Co-author of **S.B. 157**.

SENATE RESOLUTION 166

Senator Krier offered the following resolution:

WHEREAS, Friday, February 24, 1989, has been designated Clarissa Davis Day in Texas in honor of The University of Texas basketball player who is completing a brilliant four-year career with the Lady Longhorns; and

WHEREAS, The Senate of the State of Texas is pleased to recognize Clarissa Glenn Davis for her unparalleled performances on the court; and

WHEREAS, Coming to The University of Texas from San Antonio's John Jay High School, Clarissa Davis brought an enviable record as the all-time leading scorer in the history of San Antonio high school girls basketball; she was selected Miss Texas Basketball in 1985 for her outstanding ability; and

WHEREAS, This 6 foot, 1 inch center, a senior majoring in communications, in playing her last regular season home game for the Lady Longhorns, became the all-time Southwest Conference high scorer in women's basketball; and

WHEREAS, As a freshman, Clarissa was Texas's second leading scorer and top rebounder; she was Most Valuable Player of the 1986 Final Four as Texas won its first Women's National Collegiate Athletic Association Basketball Championship; and

WHEREAS, During her sophomore year, Miss Davis missed half of the Southwest Conference regular season due to an injury and still finished a strong season, being honored as Naismith Player of the Year as well as being named Kodak and Women's Basketball News Service All-American; and

WHEREAS, Her junior year began with a brilliant season only to be shattered with a painful knee injury; the highlight of the season was a 45-point effort against top-ranked Kentucky; she broke the 1,000 point mark and shot 64.1 percent from the field; and

WHEREAS, This dynamic player delights her audiences with her quickness, energy, finesse, and accuracy; and

WHEREAS, Clarissa considers her return for this her senior season, after recovering from major reconstructive knee surgery, to be the highlight of her career at the university; and

WHEREAS, She is a consensus All-America selection and was an alternate on the 1988 United States Olympic Team; in international play she was a member of the Pan Am Games, the 1986 World Championships, and the Goodwill Games; and

WHEREAS, Accomplished and talented off the basketball court, Clarissa Davis is an exemplary role model for all young women; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, hereby commend and applaud Clarissa Davis on her impressive career and for her contributions to sportsmanship, women's athletics, the game of basketball, and to our state; and, be it further

RESOLVED, That a copy of this Resolution be prepared for her as a memento of her special day and as a token of best regards from the Texas Senate with best wishes for much success in the future.

The resolution was read and was adopted viva voce vote.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
February 23, 1989

TO THE SENATE OF THE SEVENTY-FIRST LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE TEXAS BOARD OF CORRECTIONS, FOR A TERM TO EXPIRE FEBRUARY 15, 1991:

Mr. Ben Gallant, Jr.
13501 Royal Fifth
Corpus Christi, Texas 78418

Mr. Gallant will be filling the unexpired term of a vacant position formerly held by Jerry Hodge. Mr. Hodge was appointed to another position on the board.

TO BE MEMBERS OF THE TEXAS A&M UNIVERSITY SYSTEM BOARD OF REGENTS FOR TERMS TO EXPIRE FEBRUARY 1, 1995:

Raul B. Fernandez
9111 Powhatan
San Antonio, Texas 78230

Mr. Fernandez will be replacing David Eller of Houston, whose term expired.

Ross D. Margraves, Jr.
5100 San Felipe, 181 East Tower
Houston, Texas 77056

Mr. Margraves will be replacing John Brady Coleman, M.D. of Houston, whose term expired.

TO BE A MEMBER OF THE INDUSTRIAL ACCIDENT BOARD, FOR A TERM TO EXPIRE SEPTEMBER 1, 1993:

Mr. Milton E. Fox
6010 Cape Coral
Austin, Texas 78746

Mr. Fox will be filling the unexpired term of James J. Kaster of Austin, who resigned.

TO BE A MEMBER OF THE TEXAS STATE
UNIVERSITY SYSTEM BOARD OF REGENTS,
FOR A TERM TO EXPIRE FEBRUARY 1, 1995:

Daniel N. Matheson III
3811 Green Trails South
Austin, Texas 78731

Mr. Matheson will be replacing Ruben M. Escobedo of San Antonio, whose term expired.

TO BE A MEMBER OF THE TEXAS FUNERAL SERVICE COMMISSION,
FOR A TERM TO EXPIRE JANUARY 31, 1995:

Mr. Scott Kurth
510 Kenya
Cedar Hill, Texas 75104

Mr. Kurth will be replacing Reverend William Stephenson of Dallas, whose term expired.

Respectfully submitted,

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

GUEST PRESENTED

Senator Caperton was recognized and presented Dr. Art Caylor of College Station.

The Senate welcomed Dr. Caylor, a participant in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, and expressed appreciation for his contributions today.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

On motion of Senator Edwards and by unanimous consent, Senate Rule 14.02 was suspended in order to consider for confirmation those nominees reported today by the Committee on Nominations.

Senator Edwards moved confirmation of the nominees reported today by the Committee on Nominations.

The President asked if there were requests to sever.

Senator Truan requested the nomination of Dr. Mario Ramirez, to be a Member of The University of Texas Board of Regents, be severed.

The request was granted.

NOMINEES CONFIRMED

The following nominees, not severed and reported today by the Committee on Nominations, were confirmed by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

Member, Texas Board on Aging: DR. CARL U. WESTBROOK II, Smith County.

Member, Public Safety Commission: ALBERT ALKEK, Victoria County.

Members, Board of Directors, State Bar of Texas: DR. JOSEPH S. BENEKE, Harris County; EARL WILLIAM CHAPMAN, Travis County.

Members, Texas Motor Vehicle Commission: WILLIAM W. COLLINS, JR., Tarrant County; NORMAN SCOTT JONES, Harris County.

Members, Texas Commission on Alcohol and Drug Abuse: J. COLEY COWDEN, Midland County; JERRY DEERE, Brazoria County; RANDALL L. SCHMIDT, Tarrant County.

Members, Gulf Coast Waste Disposal Authority: DR. CHARLES T. LADOULIS, Harris County; MRS. KATHLEEN McCRORY VAUGHN, Chambers County; PHILIP ALLEN WERNER, Galveston County.

Members, Board of Directors, Texas Housing Agency: MS. MARGIE LEE BINGHAM, Fort Bend County; EDMUND R. CARRERA, El Paso County.

Members, State Property Tax Board: GEORGE F. BOBBITT, Harris County; MARVIN L. JONES, Hutchinson County; ARTHUR C. WHITE, Dallas County.

Member, Texas Water Commission: BUCK JIM WYNNE III, Dallas County.

Judge of the Tarrant County Court at Law No. 1: R. BRENT KEIS, Tarrant County.

Question recurring on the confirmation of Dr. Ramirez to be a Member of The University of Texas Board of Regents, Dr. Ramirez was confirmed by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

MESSAGE FROM THE HOUSE

House Chamber
February 23, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 631, Relating to an emergency appropriation to defray the expense of staff group insurance at public junior and community colleges.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 44 ON SECOND READING

On motion of Senator Green and by unanimous consent, the regular order of business, Senate Rule 7.14 and Section 5 of Article III of the State Constitution were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 44, Relating to the adjudication and disposition of a child for failure to give information and render aid at the scene of certain accidents.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 44 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 44** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Parmer.

The bill was read third time and was passed viva voce vote.

SENATE BILL 71 ON SECOND READING

On motion of Senator Green and by unanimous consent, the regular order of business, Senate Rule 7.14 and Section 5 of Article III of the State Constitution were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 71, Relating to temporary restraining orders in suits affecting the parent-child relationship brought by a governmental entity.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 71 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 71** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Parmer.

The bill was read third time and was passed viva voce vote.

SENATE BILL 226 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business, Senate Rule 7.14 and Section 5 of Article III of the State Constitution were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 226, Relating to limitations on group credit life insurance.

The bill was read second time.

Senator Harris offered the following committee amendment to the bill:

Amend **S.B. 226**, SECTION 1, Sec. 1(4)(a) by striking "One Hundred Thousand Dollars (\$100,000)" and substituting "One Hundred Twenty Five Thousand Dollars (\$125,000)".

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

SENATE BILL 226 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that S.B. 226 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Parmer.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE BILL 112 ON SECOND READING

On motion of Senator Leedom and by unanimous consent, the regular order of business, Senate Rule 7.14 and Section 5 of Article III of the State Constitution were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 112, Relating to the composition and duties of the Productivity Bonus Commission.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 112 ON THIRD READING

Senator Leedom moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that S.B. 112 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Parmer.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE CONCURRENT RESOLUTION 2 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business, Senate Rule 7.14 and Section 5 of Article III of the State Constitution were suspended to consider at this time on its second reading:

S.C.R. 2, Creating the Texas State Artist Committee to designate Texas State Artists for the years of 1989, 1990 and 1991.

The resolution was read second time and was adopted viva voce vote.

COMMITTEE SUBSTITUTE**SENATE BILL 192 ON SECOND READING**

On motion of Senator Glasgow and by unanimous consent, the regular order of business, Senate Rule 7.14 and Section 5 of Article III of the State Constitution were suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 192, Relating to the administration of the pre-parole transfer program.

The bill was read second time.

Senator Glasgow offered the following amendment to the bill:

Amend C.S.S.B. 192 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Article 6166x-4, Revised Statutes, is amended to read as follows:

Art. 6166x-4. PRE-PAROLE TRANSFER

Sec. 1. In this article:

(1) "Board" means the Board of Pardons and Paroles.[:]
 (2) "Community residential facility" means a halfway house certified by and under contract with the board [~~Board of Pardons and Paroles~~] under Section 8(h), Article 42.18 [~~Subsection (h), Section 15, Article 42.12~~], Code of Criminal Procedure, [~~1965, as amended~~] or another facility or residence approved by the board. [~~Texas Department of Corrections and the Board of Pardons and Paroles~~];

(3) "Department" means the Texas Department of Corrections.[:]

(4) "Director" means the director of the department. [~~Texas Department of Corrections~~];

(5) "Eligible inmate [~~prisoner~~]" means an [a-prisoner-or] inmate in the actual physical custody of the Texas Department of Corrections for whom a presumptive parole date has been established by the board. [Board of Pardons and Paroles and approved by the governor; and]

(6) "Pre-parolee" means an eligible inmate of whom the board has assumed custody.

(7) "Presumptive parole date" means a date specified by the board [~~Board of Pardons and Paroles and approved by the governor~~] under Section 8(l), Article 42.18 [~~Subsection (m), Section 15, Article 42.12~~], Code of Criminal Procedure, [~~1965~~] on which an individual's parole release is to become effective, absent the development of additional negative information in the case or negative changed circumstances resulting in a rescission of the date.

Sec. 2. (a) The board [~~director~~] may assume custody of an eligible inmate [transfer an eligible prisoner to a community residential facility] not more than 180 days before the eligible inmate's [prisoner's] presumptive parole date. The eligible inmate becomes a pre-parolee on the date the board assumes custody, and the board immediately shall transfer the pre-parolee to a community residential facility. Except as otherwise provided by this article, the pre-parolee may [prisoner shall] serve the remainder of his sentence prior to release on parole in the facility designated by the board [department].

(b) At the time of the transfer of the pre-parolee [~~prisoner~~], the board [~~department~~] shall designate a community residential facility [~~approved by the board~~] as the pre-parolee's [prisoner's] assigned unit of confinement. [A prisoner transferred pursuant to the terms of this article is deemed to be in the continuing actual physical custody of the department and is subject to the good conduct time provisions of Article 6181-1, Revised Statutes.]

(c) [~~At the time of transfer of the prisoner, the department may pay the prisoner all or part of the amount of money he would receive on release under Article 6166m-1, Revised Statutes, as amended.~~] If [~~at~~] a pre-parolee [~~later date the prisoner~~] is transferred from pre-parole status to parole status[~~; without a rescission of his presumptive parole date,~~] he shall receive [~~any balance of~~] the amount of money to which he is entitled [~~authorized~~] under Section 1, Chapter 104, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6166m-1, Vernon's Texas Civil Statutes).

Sec. 2A. (a) A person is eligible for transfer under this section from a jail or correctional institution to a community residential facility if:

(1) the person has been sentenced to a term of confinement in the department;

(2) the person has not been delivered to the custody of the department, but rather is confined in a jail in this state, a federal correctional institution, or a jail or correctional institution in another state; and

(3) a presumptive parole date for the person has been established by the board.

(b) The board may authorize the transfer of an eligible person from a jail in this state, a federal correctional institution, or a jail or correctional institution in another state to a community residential facility designated by the board not more than 180 days before the person's presumptive parole date. A person transferred under this section is deemed to be in the actual physical custody of the board.

(c) A person transferred by the board to a community residential facility is subject to the provisions of Sections 2(c), 3, and 4 of this article in the same manner as if the person is a pre-parolee who had been transferred to a community residential facility under Section 2 of this article.

(d) The board may request of a sheriff that the sheriff forward to the board copies of any records possessed by the sheriff that are relevant to the board in its determination as to whether to transfer a person from the county jail to a community correctional facility, as well as the information relating to the defendant the sheriff would be required under Section 8, Article 42.09, Code of Criminal Procedure, to deliver to the Texas Department of Corrections had the defendant been transferred to the department. The sheriff shall comply with a request from the board made under this subsection.

Sec. 3. (a) The board [department] shall promulgate a written set of rules for the conduct of pre-parolees [prisoners] transferred under the terms of this article.

(b) On transfer, the pre-parolee [prisoner] is subject to supervision by the board and shall obey the orders of the board [and the department].

(c) An officer assigned by the board to supervise a pre-parolee [prisoner] transferred under this article must make periodic written reports to the board [department as required by the department] concerning the pre-parolee's [prisoner's] adjustment. The officer shall immediately report [to the department and] to the board in writing if the officer believes that the pre-parolee has violated [a violation of] the terms of the pre-parolee's [prisoner's] transfer agreement or the rules of the facility and may include in the report his recommendation as to the disciplinary action the board [department] should take in the case. The officer may also recommend to the board that it rescind or revise the pre-parolee's [prisoner's] presumptive parole date. The [department or the] board may require an agent of the board or the community residential facility to conduct a [fact-finding inquiry prior to a] disciplinary hearing [action which the department deems appropriate in the case].

(d) If the board has an administrative need to deliver the pre-parolee to the actual custody of the department or if after a disciplinary hearing the board concurs [department determines] that a violation has occurred, the board with the approval of the department may deliver the pre-parolee to the actual custody of the department, and the department may assign [reassign] the pre-parolee [prisoner] to a regular unit of the department. If the officer reporting a violation recommends a disciplinary action, the board [department] shall follow the recommendation unless it determines that another disciplinary action is more appropriate. If the officer recommends rescission or revision of the pre-parolee's [prisoner's] presumptive parole date, the board shall rescind or revise the date unless it determines the action is inappropriate.

(e) During the period after a pre-parolee is transferred to a community residential facility under this article and before the pre-parolee is released on parole, the board may award good conduct time to the pre-parolee earned by the pre-parolee during that period in the same amounts and in the same manner as the director awards good conduct time to prisoners in the department under Article 6181-1, Revised Statutes.

Sec. 4. (a) If a pre-parolee [prisoner] transferred under the terms of this article satisfactorily serves a term in the community residential facility until his presumptive parole date, the board may [shall] transfer the pre-parolee [prisoner] from pre-parole status to parole status and the board may [shall] issue the pre-parolee [prisoner] an appropriate certificate of release to conditional freedom pursuant to Article 42.18 [42.12], Code of Criminal Procedure[; 1965, as amended].

(b) A pre-parolee [prisoner] transferred from pre-parole status to parole status is subject to provisions concerning prisoners released on parole provided by Article 42.18 [42.12], Code of Criminal Procedure[; 1965, as amended].

Sec. 5. (a) The board and the department may enter into interagency contracts for the purpose of accomplishing [the] pre-parole transfers [transfer of prisoners] to community residential facilities.

(b) The board and the department shall enter into a memorandum of understanding establishing:

(1) criteria for the return of pre-parolees from community residential facilities to the department and for the delivery to the department of persons confined in a community residential facility under Section 2A of this article;

(2) a quota system limiting the number of returns or deliveries in any month; and

(3) a procedure for transmitting to the department information received by the board under Section 2A(d) of this article.

(c) The board and the department by rule shall adopt the memorandum of understanding required by this section.

Sec. 6. It is the intent of the legislature that this article not create an expectation of release on the part of any individual.

SECTION 2. The change in law made by Section 1 of this Act, amending Section 4(a), Article 6166x-4, Revised Statutes, applies only to a pre-parolee transferred to a community residential facility on or after the effective date of this Act. The law relating to transfers to a facility before the effective date of this Act is the law in effect at the time of transfer, and the former law is continued in effect for this purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted viva voce vote.

RECORD OF VOTE

Senator Green asked to be recorded as voting "Nay" on the adoption of the amendment.

On motion of Senator Glasgow and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 192 ON THIRD READING**

Senator Glasgow moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.B. 192 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Green, Washington.

Absent-excused: Parmer.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1.

Nays: Green.

Absent-excused: Parmer.

SENATE BILL 338 ON SECOND READING

Senator Caperton moved that the regular order of business be suspended and that S.B. 338 be taken up for consideration at this time:

S.B. 338. Relating to emergency appropriations. (Submitted as an emergency matter by the Governor)

The motion prevailed by the following vote: Yeas 25, Nays 4.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Haley, Harris, Henderson, Johnson, Krier, Lyon, Montford, Parker, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Zaffirini.

Nays: Green, Leedom, Washington, Whitmire.

Absent: McFarland.

Absent-excused: Parmer.

The bill was read second time.

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 1

Amend S.B. 338 as follows:

Delete entire SECTION 5. APPROPRIATION TO CERTAIN JUNIOR COLLEGES, on p. 5, line 20 through p. 6, line 5, and renumber subsequent sections accordingly.

The amendment was read and was adopted viva voce vote.

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 2

Amend S.B. 338 as follows:

Insert new Section 7 at p. 6, line 12 and renumber subsequent sections accordingly:

SECTION 7. PUBLIC INTEGRITY UNIT IN TRAVIS COUNTY DISTRICT ATTORNEY'S OFFICE. In addition to amounts previously appropriated for the current fiscal biennium, the sum of \$480,509 is hereby appropriated, for the period ending August 31, 1989, from the general revenue fund to the Public Integrity Unit in the District Attorney's Office of the Fifty-third Judicial District (Travis County), to be used for expenses related to the investigation and prosecution of motor fuels tax fraud.

The amendment was read and was adopted viva voce vote.

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 3

Amend S.B. 338 as follows:

Insert new Section 8 at p. 6, line 12 and renumber subsequent sections accordingly:

SECTION 8. PECOS RIVER COMPACT COMMISSION. In addition to amounts previously appropriated for the current fiscal biennium, the sum of \$105,750 is hereby appropriated, for the period ending August 31, 1989, from the general revenue fund to the Pecos River Compact Commission, for the payment of professional services performed in relation to the lawsuit Texas v. New Mexico, No. 65 Original, U.S. Supreme Court, according to the following schedule:

Supreme Court River Master	\$16,000
Supreme Court Special Master	39,750
Technical Experts	50,000

The amendment was read and was adopted viva voce vote.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 4

Amend S.B. 338 by striking SECTION 2 in its entirety and renumbering the following SECTIONS.

The amendment was read.

On motion of Senator Caperton, the amendment was tabled by the following vote: Yeas 22, Nays 5.

Yeas: Armbrister, Barrientos, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Henderson, Johnson, Krier, Lyon, Montford, Ratliff, Santiesteban, Sims, Tejeda, Uribe, Zaffirini.

Nays: Bivins, Leedom, Truan, Washington, Whitmire.

Absent: Harris, McFarland, Parker.

Absent-excused: Parmer.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 5

Amend S.B. 338 by striking SECTION 3 in its entirety and renumbering the remaining SECTIONS accordingly.

The amendment was read.

On motion of Senator Caperton, the amendment was tabled by the following vote: Yeas 24, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Henderson, Johnson, Krier, Lyon, Montford, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Brown, Leedom, Washington.

Absent: Harris, McFarland, Parker.

Absent-excused: Parmer.

Senator Johnson offered the following amendment to the bill:

Floor Amendment No. 6

Amend S.B. 338 as follows:

(1) On page 3, insert a new section, appropriately numbered, immediately before the emergency clause section:

SECTION ____ CONTRACTS UNDER CERTAIN APPROPRIATIONS.

(a) This section applies only to an appropriation made by this Act to the State Preservation Board.

(b) In this section:

(1) "Minority business enterprise" means a business entity more than 50 percent of which is owned by minority group members or, in the case of a corporation, more than 50 percent of the shares of which are owned by minority group members, and that:

(A) is managed and, in daily operations, controlled by minority group members; and

(B) is a domestic business entity with its home office located in this country and not a branch or subsidiary of a foreign corporation, firm, or other business entity.

(2) "Minority group members" include American Indians, Asian Americans, Black Americans, and Mexican Americans and other Americans of Hispanic origin.

(3) "Women-owned business enterprise" means a business entity more than 50 percent of which is owned by women or, in the case of a corporation, more than 50 percent of the shares of which are owned by women, and that:

(A) is managed and, in daily operations, controlled by women; and

(B) is a domestic business entity with its home office located in this country and not a branch or subsidiary of a foreign corporation, firm, or other business entity.

(c) The State Preservation Board shall adopt by rule statewide goals for the participation of minority business enterprises and women-owned business enterprises in the awarding of contracts for the purchase of supplies, materials, services, or equipment under an appropriation made by this Act to the board. Under the participation goals, the board shall attempt to award to minority business enterprises and women-owned business enterprises not less than 15 percent of the total value of all contract awards under the appropriation made by this Act to the board as applicable.

(2) Renumber the emergency clause section accordingly.

The amendment was read and was adopted viva voce vote.

On motion of Senator Caperton and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

RECORD OF VOTES

Senators Leedom and Washington asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 338 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that S.B. 338 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Henderson, Johnson, Krier, Lyon, Montford, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Brown, Leedom, Washington.

Absent: Harris, McFarland, Parker.

Absent-excused: Parmer.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Henderson, Johnson, Krier, Lyon, Montford, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Leedom, Washington.

Absent: Harris, McFarland, Parker.

Absent-excused: Parmer.

CONGRATULATORY RESOLUTIONS

H.C.R. 111 - (Johnson): Extending congratulations to the Honorable George Louis Allen of Dallas.

S.R. 98 - By Lyon: Extending congratulations to the City of Tyler on "Tyler Day", February 22, 1989.

S.R. 160 - By Lyon: Extending congratulations to A. W. "Dub" Riter, Jr., on his retirement as president and chief executive officer of NCNB Tyler.

S.R. 162 - By Brown: Extending congratulations to Armando Garcia for his outstanding accomplishments.

S.R. 163 - By Uribe: Extending congratulations to the volunteers and the board of directors of the Rio Grande Valley Livestock Show and welcoming its President Carl Schuster and 1989 Cover Girl Lori Dubuisson.

S.R. 164 - By Brown: Extending congratulations to Mrs. Ruth Munson Smith for her commitment to the historical preservation of Brazoria County.

S.R. 165 - By Montford: Extending congratulations to Terry Allen of Lubbock for his highly individual contributions to the world of art.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 1:37 p.m. adjourned until 11:00 a.m. Monday, February 27, 1989.

APPENDIX

Filed with Secretary of State
(February 23, 1989)

H.C.R. 20

EIGHTEENTH DAY

(Monday, February 27, 1989)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Raymond D. Kiser, Pastor, Northwest Hills United Methodist Church, Austin, Texas, offered the invocation as follows:

Holy God, this small group of people has a big job to do this year. They have some very big problems from a very big State resting on their shoulders. They can use all the good help and support they can get—especially that includes Your help.

We ask Your blessing and guidance for the work of the State Senate today. May their work be done with concern for the common good. Help them to serve with integrity and compassion, justice and excellence.

We thank You for the gift of this day. Help us to make it a good one. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of Thursday, February 23, 1989, was dispensed with and the Journal was approved.

REPORT OF STANDING COMMITTEE

Senator Harris submitted the following report for the Committee on Economic Development:

S.B. 321
S.B. 320
S.B. 430
S.B. 325 (Amended)
C.S.S.B. 306
C.S.S.B. 413
C.S.S.B. 140

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the captions had been read, the following enrolled bills and resolutions: